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LETTER DATED 6 AUGUST 1996 FROM THE PRESIDENT OF THE GOVERNING COUNCIL OF THE UNITED NATIONS COMPENSATION COMMISSION ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit herewith, through Your Excellency for the information of the Security Council, the following details concerning the twenty-first regular session of the Governing Council of the United Nations Compensation Commission, held at the Palais des Nations in Geneva on 22 and 23 July 1996.

At its 61st meeting, the Governing Council heard statements from the representatives of Kuwait, Iraq, the Sudan, Yemen and Afghanistan. It also heard a comprehensive report by the Executive Secretary, Ambassador Carlos Alzamora, on the activities of the Commission (see annex I).

Regarding the category "A" claims (claims for departure from Iraq or Kuwait), the Council was informed of the conclusion of the work of the Panel regarding the last instalment of such claims. This sixth instalment of more than 130,000 claims will be submitted to the Governing Council for approval at its October 1996 session. At that date, more than 910,000 claims for a total amount of approximately US$ 3 billion will have been resolved.

During its 62nd meeting, the Council approved the third instalment of category "C" claims (individual claims for up to $100,000), composed of types of losses that could be processed efficiently through database-assisted techniques. The total compensation amount awarded is over $320 million for approximately 64,000 claimants.

Further, the Council approved the Commissioner candidates nominated by the Secretary-General with respect to the first Panels of Commissioners for claims in category "D" (individual claims over $100,000), category "E" (corporate claims) and category "F" (governmental claims). The composition of the Panels of Commissioners is as follows:

- Category "D" claims (individual claims over $100,000):

| | |
|---|---|
| Mr. R. K. P. Shankardass (India) | Chairman |
| Mr. Michael C. Pryles (Australia) | Commissioner |
| Mr. Henry Joko-Smart (Sierra Leone) | Commissioner |

- Category "E" claims (corporate claims):

| | |
|---|---|
| Mr. Bernard Audit (France) | Chairman |
| Mr. José Maria Abascal (Mexico) | Commissioner |
| Mr. David Caron (United States of America) | Commissioner |

- Category "F" claims (governmental claims):

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|---|---|
| Mr. Björn Haug (Norway) | Chairman |
| Mr. Georges Abi-Saab (Egypt) | Commissioner |
| Mr. Michael Bonell (Italy) | Commissioner |

The candidates have been selected on the basis of their professional background, authority, specialization and experience in international litigation and arbitration, as well as geographical distribution. The balanced geographical representation matches the equally balanced nationalities of the five previously appointed Panels.

The Council also had before it reports submitted by Governments on the distribution of compensation awarded to the successful claimants in category "B" (claims for serious personal injury or death). The Council noted with appreciation that the payments process is being completed in the manner provided for by decision 18 of the Governing Council (see annex II). Of the $13.450 million awarded, only $52,500 remains to be transferred to four Governments and international organizations, pending banking details to be provided to the Secretariat.

As regards the merits phase of the 1.2 million Egyptian workers' claims, the Executive Secretary informed the Council that the Government of Egypt had completed its submission required by the report of the Panel of Commissioners and that the Government of Iraq was in the process of preparing its response.

Concerning the "Well Blowout Control Claim" (WBC claim) put forward by the Kuwait Oil Company for the cost of extinguishing the oil-well fires, the Council was informed that the claimant and the Government of Iraq had filed submissions in response to the second procedural order issued by the Panel of Commissioners appointed to consider the claim. An oral hearing was held by the Panel at Geneva from 29 July to 1 August 1996. Following a large submission received from the Government of Kuwait before the hearing, a new procedural order gave the Government of Iraq the possibility of making a unilateral post-hearing submission by 2 September 1996. As previously scheduled, the Panel is expected to complete its review of the WBC claim by 27 November 1996.

In addition, the Council examined the situation of a few category "E" claims (corporate claims) submitted to the Commission after the expiration of

the time-limits for filing such claims. None of these claims was accepted for "late filing".

The Governing Council also welcomed the approval of Iraq's distribution plan that will create a new momentum towards implementing Security Council resolution 986 (1995) as soon as possible. Under cover of my letter to you dated 6 June 1996 (S/1996/462), I provided the Security Council with information regarding the payment of compensation to successful claimants in the first and second instalments of categories "A" and "C" claims once resources would be deposited into the Compensation Fund ($142 million is needed to pay the first instalments of categories "A" and "C" claims at a rate of $2,500 per successful claimant; a further $560 million would be necessary to pay, in the same way, the successful claimants in the second instalments of categories "A" and "C" claims).

Finally, I would like to point out that this session marked the fifth anniversary of the first session of the Governing Council of the Compensation Commission, which was held from 22 July to 1 August 1991. On the occasion, the secretariat prepared a multimedia presentation providing an overview of the work of the Commission over the past five years, which was attended by representatives of States members of the Governing Council and other States Members of the United Nations, officials of the United Nations Office at Geneva, heads of United Nations agencies in Geneva and of international organizations, members of the International Law Commission, and the press. The Commission's activities over the last five years may be summarized as follows:

- 2.6 million claims with a total asserted value of over $200 billion have been received;

- 2.4 million claims, all of which are individual claims that were given priority for humanitarian purposes, will have been processed by the secretariat and reviewed by the respective Panels by the end of 1996;

- 4,000 successful claimants in category "B" (claims for serious personal injury or death) have been paid in full;

- In total, following the present session, awards totalling $3.7 billion have been approved by the Governing Council, which, ever since the beginning of its work, has adopted all of its decisions by consensus.

The Governing Council believes that the Commission has demonstrated the potential of the United Nations to face new challenges.

(Signed) Giuseppe BALDOCCI
President
Governing Council
United Nations Compensation Commission

Annex I

Report of the Executive Secretary*

1. This session of the Governing Council marks the fifth anniversary of the first session of the Council, which was held from 22 July to 2 August 1991 and adopted its first decisions. It was during that first session that I was granted the honour of serving as the Executive Secretary of the Commission. The challenge facing the Commission, to provide relief to millions of victims of the invasion and occupation of Kuwait in the shortest possible time frame, was a hard one. At the time, the secretariat was non-existent, financial resources were minimal, there were no Commissioners and no claims had been filed.

2. However, in less than three years, the Commission was paying its first awards and in little over five years will have resolved 2.4 million out of the 2.6 million claims received. Never in history has mankind witnessed a compensation programme, for losses and damages resulting from a large-scale armed conflict, in the volume, value and coverage of this one that the international community - through the United Nations Security Council - decided to take upon itself.

3. But the unique character of the Compensation Commission is not only derived from the sheer number of filed claims or their astronomical asserted value. It also results from the fact that huge amounts of successful claims have already been approved by the Governing Council in favour of nationals from 84 countries and 3 international organizations, filing claims on behalf of individuals who could not have their claims presented by Governments.

4. An additional distinction of the operation of the Compensation Commission is the fact that for the first time in a compensation programme following an international armed conflict priority has been given from the start to the claims of individuals over those of corporations and Governments. A priority that has been reflected at all stages of filing, processing, adjudication and payment. And that proves the importance that the international community, and the members of the Governing Council in particular, attached to the humanitarian dimension of this compensation operation.

5. Moreover, the Compensation Commission signals the first instance in international compensation programmes where advancements in the field of information systems have been duly incorporated into the operation so as to expedite the processing of claims and the assessment of their eligibility for compensation.

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* Previously issued under the symbol S/AC.26/1996/R.17 of 22 July 1996.

6. Five years after its creation, the Commission has achieved significant results. By the end of this session, the Governing Council would have decided upon:

- 783,000 category "A" claims for a total of $2.85 billion in awarded compensation;

- 6,000 category "B" claims for a total of $13.450 million, awarded and paid;

- 130,000 category "C" claims for a total awarded amount of almost $800 million.

7. Today, following the agreement reached between the United Nations and the Government of Iraq, there is reasonable expectation that, in the coming months actual payments of approximately $700 million can be made to 280,000 claimants.

8. But images tell more than words and for this occasion the secretariat has prepared a 25-minute multimedia presentation reflecting the five-year history of the Commission which, as announced, will be shown to the members of the Council, permanent missions, United Nations agencies and the press this afternoon.

9. Let me now offer you a brief update of the state of our work.

10. The Panel of Commissioners appointed to review category "A" claims has signed its sixth and last report on departure claims earlier this month, thereby concluding its work. This final instalment of more than 130,000 claims will be submitted to the Governing Council for approval at the October 1996 session. At that date, the total amount awarded to some 915,000 successful category "A" claimants would be over $3.4 billion.

11. This is indeed a milestone in the history of the Compensation Commission and the most important result achieved so far by the Commission. It is highly significant that, in little more than five years, the Commission was able to receive, process and resolve nearly 1 million claims representing the individuals and their families that had to depart from Iraq or Kuwait. The high percentage of successful claims - over 90 per cent - corresponds to a historical and tragic reality, but is also the fair result of the painstaking efforts displayed by the category "A" Panel and the secretariat's category "A" Unit to ensure that all truly entitled claimants would be compensated. This impressive effort included the individual review of more than 40,000 claims.

12. In that respect, I should like to express my appreciation to all the Governments, including the Government of Iraq, and all of the international organizations and other bodies that provided the Commission with data, documents and other relevant arrival/departure information for the processing of this category of claims.

13. On category "B" claims, nearly all of the $13.45 million of awards has been paid to Governments and international organizations for distribution to claimants. To date only $52,000 remains to be transferred to four Governments

and international organizations for distribution and this will be effected as soon as the corresponding banking details are provided to the secretariat.

14. As reported in the documentation before you, arrangements for the distribution of payments have been already reported by 23 Governments and international organizations.

15. From 1 August 1996 onwards, several countries would be required by the provisions of the relevant decision of the Governing Council to submit reports on the actual distribution of the payments. A number of countries have already provided these reports and they would be presented to the Governing Council at its next session.

16. Concerning category "C" claims, the Governing Council has before it, for its approval, the third report of the Panel of Commissioners appointed to review that category. This third report has its basis in the previous report of the Panel, which applied the same methodology in the review of 62,121 claims from 75 countries. The 64,065 claims in this instalment were submitted by Egypt and Kuwait, the two Governments with the largest number of claims in this category and the only Governments to submit claims in both computer and paper format to facilitate and speed up its processing. These claims represent some of the losses most frequently suffered such as claims for departure losses, for personal property losses, for salary losses and for mental pain and anguish attributable to forced hiding or illegal detention, which could be processed efficiently through database-assisted techniques. The fact that the data were readily available for thousands of claimants of these two countries allowed the Panel to make these additional recommendations in record time following the second report.

17. The recommended compensation amount for this third instalment of category "C" claims totals close to $324 million.

18. With respect to the remaining three categories, the Council will recall that the article 16 report No. 15, which was issued on 30 April 1996, marked the beginning of comprehensive reporting of claims in categories "D", "E" and "F".

19. The secretariat is now in the process of preparing the first instalments of claims in these categories for Panels of Commissioners. In this respect, and after the relevant consultations, the Governing Council is presented with a list of Commissioner candidates from the Secretary-General for appointment to the respective Panels. The proposed candidates have been selected on the basis of their professional backgrounds, prestige, specialization and experience in international commercial litigation and arbitration, as well as the required geographical distribution.

20. Out of the nine proposed candidates, two are from Africa, two from Asia - and for purposes of this exercise I am including Australia in this total - one from Latin America, three from Europe and one from North America. The balanced geographical representation of these Panels matches the equally balanced nationalities of the Commissioners in the five Panels previously appointed. The geographical distribution of Commissioners now yields a total of six Africans, six Asians, two Latin Americans, two North Americans and eight

Europeans, which globally represents 13 from the South and 11 from the North, if we also want to apply these geographical criteria.

21. The three new Panels will start their work on the first instalments of category "D", "E" and "F" claims during the second half of this year.

22. As to the Egyptian workers' claim, the Government of Egypt has recently completed its submission pursuant to the Panels's instructions for the further proceedings in this case. Egypt's submission has been delivered to the Government of Iraq, which is currently in the process of preparing its response as requested by the Panel.

23. Regarding Kuwait's Well Blowout Control claim (the WBC claim), the further developments that have taken place since the issuance by the Commissioner Panel, on 14 May 1996, of its second procedural order, are as follows.

24. Pursuant to that procedural order, the claimant, Kuwait Oil Company, and the Government of Iraq filed additional submissions between 27 June and 2 July 1996. An oral hearing will take place from 29 July to 1 August 1996. Following a large submission of supporting documentation received from Kuwait, a new procedural order gives Iraq the possibility of making a unilateral post-hearing submission by 2 September 1996. As previously scheduled, the WBC Panel is expected to complete its report and recommendations for the claim by 27 November 1996.

25. On the issue of confidentiality, I should like to inform the Council that some Governments seemed to encounter some difficulties in understanding precisely the scope of the determinations made by the Council on this issue at the December session. Therefore, the secretariat has prepared an explanatory note to be attached to the letters on confidentiality that will be sent to the submitting entities concerned together with the next article 16 report.

26. While confidentiality in general terms has been from 1991 a concern of the Council, transparency constitutes a necessary part of the image of fairness and impartiality of the work of the Commission, particularly at the payment stage. The Council could perhaps review periodically this situation in order to reconcile, as far and as soon as possible, these two elements.

27. As a result of the signing of the Memorandum of Understanding between the United Nations and the Government of Iraq, now in its final stage of implementation, substantial amounts from the Iraqi oil export revenues could be transferred to the Compensation Fund in the next few months. As indicated in my last report and in accordance with decision 17 of the Council, an initial payment of $2,500 could be made to each of the 57,000 claimants from 61 countries in the first instalments of categories "A" and "C" claims for a total of $142 million. Soon after, hopefully, the 224,000 successful claimants from 70 countries in the second instalments of categories "A" and "C" claims could be similarly each paid $2,500 for a total amount of $562 million.

28. In the meantime, we continue our efforts to recover the amount due to the Commission from the sale of Iraqi oil in the Saudi pipeline and to secure the income for the Commission from the flushing of the Iraqi oil existent in the

Turkish pipeline. We are also continuing with efforts to collect the revenue due to the Commission from the sale of small amounts of Iraqi oil illegally carried by the ships of diverse nationalities that were detained.

29. If those efforts would ultimately fail, owing to a lack of cooperation from countries holding such funds, the Commission could have the recourse of deducting these amounts from the compensation amount awarded for successful claims filed as such by the corresponding Governments.

30. I am pleased to be able to inform the Council that, following four years of negotiations, with the active assistance of the secretariat, an agreement has been concluded between the Government of the Republic of Bosnia and Herzegovina and the Yugoslav Bank for International Economic Development, which had filed claims on behalf of claimants in the former Federal Republic of Yugoslavia. The agreement, which has been deposited with the secretariat of the Compensation Commission, resulted in the transfer of 331 category "A" departure claims of citizens of Bosnia and Herzegovina, previously filed by the Yugoslav Bank, to the custody of the Government of Bosnia and Herzegovina. The transfer of the claims was completed just in time for them to be considered by the category "A" Panel of Commissioners, in conjunction with their resolution of the sixth and final instalment of such claims, which, as advanced, will be presented to the Council at its October session.

31. I would also like to report on the developments on the 1996 budget. After the Council in May requested its President to take measures with the Secretary-General, and if necessary the Security Council, so that the secretariat would be assured of the means to carry out its functions, the secretariat received information from the Controller's office according to which 11 new professional posts proposed in the 1996 budget had finally been approved, subject to the provision of further explanations and information, that the secretariat has already provided. In his communication, the Controller called attention to the present financial situation of the Compensation Fund and stressed the need for new funding to be assured, as we believe is about to happen.

32. The secretariat has started preparing the draft of the 1997 budget and it is expected that the Committee on Administrative Matters will be able to meet in early October in order to examine the 1997 budget proposal.

33. This fifth anniversary finds the Commission at a stage of work much more advanced than expected at the set-up of this operation. In addition, it is very encouraging that the funds to compensate millions of victims may soon start to become available. On the other hand, it should be emphasized that the Commission still has a challenging task ahead. There remain to be processed thousands of claims of great complexity representing considerable asserted losses.

34. But beyond those concrete achievements, the fact that all the Council's decisions have been adopted by consensus, that all the Commissioners have also been appointed by consensus and that all their recommendations are unanimous and also approved by the Council by consensus, always without a vote, gives the Commission outstanding legal, political and moral authority. Its success is closely linked to this image of efficiency and fairness; to its ability to

respond to an always evolving environment; and to its capacity to anticipate events and situations.

35. Our attention is focused now on the Memorandum of Understanding, which has so many implications for this Commission, and which notwithstanding its ad hoc, temporary and restricted nature, opens a new stage. It seems opportune to analyse these implications, now that we are about to start receiving the painfully needed funds which, at the result of this humanitarian operation, will simultaneously provide relief to both the Iraqi population and the claimant population of the innocent victims of the invasion of Kuwait.

36. In this and any other matters, the secretariat is ready to assist the Council in any way that would improve our work and adjust it to new realities and challenges.

37. This is for all of us a particular commitment, at this reassuring and promising fifth anniversary of our Commission.

Annex II

Distribution of payments and transparency

Decision taken by the Governing Council of the United Nations Compensation Commission at its 41st meeting, held in Geneva on 23 March 1994*

I. Governments, exercising their responsibility for the distribution of payments of compensation for direct losses to successful claimants whose claims they have submitted, shall establish their own mechanisms to distribute payments in a fair, efficient and timely manner, subject to the following provisions:

1. Governments may offset their costs of processing claims by deducting a small fee from payments made to claimants. The Governments shall be required to provide explanations satisfactory to the Governing Council for any processing costs so deducted. Such fees shall be commensurate with the actual expenditure of Governments. In the case of awards payable to claimants in categories "A", "B" and "C", the fees should not exceed 1.5 per cent, and for awards payable to claimants in categories "D", "E" and "F", the fees should not exceed 3 per cent. Any commission or charge on compensation received from the Compensation Commission imposed by Governments pursuant to national laws is to be considered a processing cost and may be deducted by the concerned Government. Without prejudice to future decisions concerning eligibility for compensation under category "F", if a Government, that has deducted a processing fee, receives compensation for such costs under category "F", it shall reimburse to claimants those fees deducted.

2. Prior to or immediately following the receipt of the first payment from the Compensation Commission, each Government shall provide information in writing through the Executive Secretary to the Governing Council on the arrangements that it has made for the distribution of funds to claimants, and subsequently promptly report any changes to those arrangements.

3. If amounts of awards are specified by the Compensation Commission in respect of each individual claim, Governments should distribute funds to claimants within six months of receiving payment from the Compensation Commission, subject to the provisions of paragraph 5.

4. Not later than three months after the expiration of the time-limit for the distribution of each payment received from the Compensation Commission, Governments shall provide information on the amounts of payments distributed. Such reports shall refer to the category of claims and the instalment payment received from the Compensation Commission and shall also include information on the reasons for non-payment to claimants because claimants could not be located

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* Previously issued under the symbol S/AC.26/Dec.18 (1994) of 24 March 1994.

or for other reasons, as well as the explanations required on fees deducted under paragraph 1.

5. If a Government fails to distribute funds within six months of their receipt, or indicates that it needs additional time to distribute the funds, or if reports satisfying the requirements of paragraph 4 are not submitted to the Executive Secretary within the prescribed time; and where the Governing Council does not consider that exceptional circumstances exist, or is not satisfied with the reasons given for non-payment or with the adequacy of the reports submitted, the Governing Council may decide to ask for an explanation or further information from the Government concerned. In the absence of a response satisfactory to the Council, it may decide not to distribute further funds to that particular Government.

6. After completing distribution of all payments received from the Compensation Commission, each Government should produce a final summary account of payments made including who was paid, the exact amount received by each claimant and the date of each payment, as well as a report on amounts not distributed. Funds received by Governments from the Compensation Commission that Governments have not disbursed to claimants owing to inability to locate such claimants shall be reimbursed to the Compensation Fund, unless otherwise decided by the Governing Council.

7. Governments shall make payments to claimants either in United States dollars or in other currencies. If Governments convert United States dollar payments received from the Compensation Commission into other currencies for distribution of awards to claimants, they shall notify the Governing Council on the method of conversion and exchange rate to be used, bearing in mind the interests of claimants in receiving full equivalent of their awards.

II. These provisions should also apply to the distribution of payments by any person, authority or body which has been designated by the United Nations Compensation Commission to collect and submit claims on behalf of persons who are not in a position to have their claims submitted by a Government.

III. The Governing Council will continue to monitor the distribution of payments to claimants and will make revisions and adjustments of the provisions established above, whenever deemed necessary.

## Annex III

### Decision concerning the third instalment of individual claims for for damages up to US$ 100,000 (category "C" claims) taken by the Governing Council of the United Nations Compensation Commission at its 62nd meeting, held at Geneva on 23 July 1996*

The Governing Council,

Having received in accordance with article 37 of the Provisional Rules for Claims Procedure, the third report of the Panel of Commissioners appointed to review individual claims for damages up to US$ 100,000 (category "C" claims), covering 64,067 individual claims, a/

1. Approves the recommendations made by the Panel of Commissioners, and, accordingly,

2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the 64,067 claims listed in an annex to the report. The aggregate amounts per country are as follows:

| Country | Number of claims recommended for payment | Number of claims not recommended for payment | Amount of compensation recommended ($) |
|---|---|---|---|
| Egypt | 16 065 | 2 | 115 378 505.21 |
| Kuwait | 48 000 | - | 208 398 000.00 |
| Total | 64 065 | 2 | 323 776 505.21 |

3. Reaffirms that when funds become available payments shall be made in accordance with decision 17 (S/AC.26/Dec.17 (1994)),

4. Recalls that, when payments are made in accordance with decision 17 and pursuant to the terms of decision 18 (see annex II), Governments and international organizations shall distribute amounts received in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time-limit, provide information on such distribution,

5. Decides that no compensation be awarded concerning the two claims referred to in paragraph 9 of the report,

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* Previously issued under the symbol S/AC.26/Dec.37 (1996) of 24 July 1996.

6. Requests the Executive Secretary to provide a copy of the report to the Secretary-General; and copies of the report and relevant versions of the tables containing the breakdown of the amounts to be paid to each individual claimant to the Governments of Egypt and Kuwait.

Notes

a/ The text of the report is attached hereto (see annex IV). In conformity with the provisions on confidentiality in the Rules (arts. 30, para. 1, and 40, para. 5), the tables containing the breakdown of the amounts to be paid to each individual claimant will not be made public but will be provided to each respective Government separately.

## Annex IV

## Report and recommendations made by the Panel of Commissioners concerning the third instalment of individual claims for damages up to $100,000 (category "C" claims)*

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* Previously issued under the symbol S/AC.26/1996/2 of 24 July 1996.

## I. INTRODUCTION

1. The present report contains the recommendations to the Governing Council of the United Nations Compensation Commission (the "Commission") by the Panel of Commissioners (the "Panel") appointed to review individual claims for damages up to US$ 100,000 ("category 'C' claims"), pursuant to article 37 (e) of the Provisional Rules for Claims Procedure a/ (the "Rules"). These recommendations concern the third instalment comprising 64,067 category "C" claims submitted to the Panel by the Executive Secretary of the Commission pursuant to article 32 of the Rules.

2. The Panel has reviewed the third instalment of category "C" claims in a continuum with its processing of the first and second instalments of category "C" claims. This report should therefore be considered in conjunction with the report and recommendations made by the Panel of Commissioners concerning the first instalment of individual claims for damages up to $100,000 (category "C" claims) and its annexes b/ (the "first report"), and the report and recommendations made by the Panel of Commissioners concerning the second instalment of individual claims for damages up to $100,000 (category "C" claims) and its addendum c/ (the "second report"), which have been approved by the Governing Council. d/ The third instalment, composed of category "C" claims submitted by the Governments of Kuwait and Egypt, has been processed on the basis of the considerations, precedents and determinations expressed in the first and second reports, which the present report incorporates by reference. e/

3. The present report reflects the work performed by the Panel since it issued its recommendations on the second instalment of category "C" claims. The Panel met with the Commission's secretariat at the secretariat's headquarters at Geneva on 14 June 1996. The Panel acknowledges the efficient work performed by the secretariat in connection with the Panel's review of the third instalment.

## II. CLAIMS PROCESSING APPROACH

4. In its review of claims and in making its recommendations, the Panel has applied relevant Security Council resolutions, Governing Council decisions, the Rules and other relevant principles and practices of international law. In addition to the information presented in the claims, the Panel has also taken into account the following: information accompanying the submission of the third instalment of claims provided by the Executive Secretary pursuant to article 32 of the Rules; additional information and views presented by Governments and international organizations, and by the Government of Iraq, in response to the reports presented to the Governing Council by the Executive Secretary in accordance with article 16 of the Rules; and relevant United Nations and other reports.

5. In terms of defining the Panel's mandate, the Governing Council's decision 1 has particular relevance. f/ In that decision the Governing Council determined that category "C" claims, together with claims in categories "A" and "B", were considered to be "urgent" claims. Accordingly, decision 1 provides for the processing of these categories of claims "on an expedited basis" using procedures "such as checking individual claims on a sample basis, with further

verification only if circumstances warranted." g/ Consistent with that decision, article 35 of the Rules states that documents and other evidence will be the reasonable minimum appropriate under the circumstances, with a more flexible evidentiary standard applying to claims for smaller amounts.

6. The first and second reports provide an extensive discussion of the considerations and preparations underlying the processing methodologies applied to the category "C" claims. h/ In view of the Panel's mandate, and in keeping with the "fast-track" processing approach applied to the second instalment of claims, the application of statistical sampling and modelling techniques continues to form the basis for the third instalment of category "C" claims. i/ The Panel notes that, as explained in the second report, claims not meeting the fast-track processing criteria also require expedited processing and will be included in future instalments. However, given the large number of claims received in category "C", the Panel has determined that those claims that can be processed efficiently through database-assisted techniques will be addressed first.

## III. CLAIMS INCLUDED IN THE THIRD INSTALMENT

7. The Panel is aware that the Governments of Kuwait and Egypt have submitted the largest number of category "C" claims to the Commission. j/ Moreover, as noted in the second report, Kuwait and Egypt were the only Governments to submit claims in both computer and paper format. k/ The submission of claims in computer format has made claims information readily available for thousands of claimants on the Commission's database, providing access to data that can be processed efficiently through the Panel's fast-track method. The Panel is also aware that the data entry l/ of claims information for other submitting Governments and international organizations is progressing and that, once the data entry of these claims is complete, additional claims will become available for processing by means of the fast-track method. In view of the above, the third instalment of category "C" claims is composed of claims submitted by the Governments of Kuwait and Egypt. The processing of these claims at this stage will result in time savings and will facilitate the processing of further claims submitted by other Governments and international organizations, which will be included in future instalments.

8. The Kuwaiti claims included in the third instalment involve only those losses claimed on the "C1" page of the claim form for mental pain and anguish related to forced hiding ("C1-MPA" claims). m/ The Egyptian claims in this instalment include losses claimed on the "C1" page for transportation, food, lodging, relocation and other related losses ("C1-Money" claims); losses claimed on the "C4" page for clothing, personal effects, household furnishings and other personal property-related losses ("C4-CPHO" claims); losses claimed on the "C5" page related to bank accounts located in Kuwait ("C5-Kuwait bank" claims); and wages and salary losses claimed on the "C6" page ("C6-Salary" claims). In addition to C6-Salary losses, claims submitted by the Government of Egypt on the "C6" page for mental pain and anguish related to the deprivation of all economic resources ("C6-MPA" claims) have also been included as a fast-track loss in the third instalment. n/

## IV. RECOMMENDATIONS

9. The Panel hereby presents the amounts recommended as compensation for 64,065 claims in the third instalment of category "C" claims. Totalling $323,776,505.21, the recommended compensation amounts are listed in the summary table below for the two submitting Governments. The Governments of Kuwait and Egypt will each be provided with a confidential listing containing the individual recommendations made in respect of their claimants. The amounts recommended for compensation in the third instalment resolve these claims in their entirety. Two claims in the third instalment of category "C" claims are not recommended for payment. The claims not recommended for payment relate exclusively to C5-Kuwait bank and C6-MPA losses for Egypt. o/

Summary of recommendations

| Country | Number of claims recommended for payment | Number of claims not recommended for payment | Amount of compensation recommended ($) |
|---|---|---|---|
| Egypt | 16 065 | 2 | 115 378 505.21 |
| Kuwait | 48 000 | | 208 398 000.00 |
| Total | 64 065 | 2 | 323 776 505.21 |

10. Using a special program similar to that used for the processing of category "A" claims, the secretariat has performed a cross-check on a number of available identifiers in order to exclude as much as possible intra- and cross-category multiple recovery. p/ The Panel is satisfied that the secretariat has used reasonable and practical means to detect the existence of duplicate claims. However, given the difficulty for the secretariat to identify each potential case of multiple recovery, the Panel recommends that similar checking procedures be implemented by the Governments of Kuwait and Egypt to prevent instances of overpayment to their claimants.

11. With reference to the considerations on the subject of interest expressed in the first report, q/ the Panel recommends that interest be awarded on the claims included in this third instalment of category "C" claims as of 2 August 1990. r/

12. These findings are without prejudice to the conclusions and findings of panels for other categories of claims. The Panel adopted this report, including the recommendations to the Governing Council, by unanimity.

Geneva, 14 June 1996.

Mr. L. Yves FORTIER, Q.C.
Chairman

Mr. Sergei N. LEBEDEV
Commissioner

Mr. Philip K. A. AMOAH
Commissioner

Notes

a/ S/AC.26/1992/10.

b/ S/AC.26/1994/3.

c/ S/AC.26/1996/1 and S/AC.26/1996/1/Add.1/Rev.1.

d/ S/AC.26/Dec.25 (1994) and S/AC.26/Dec.36 (1996).

e/ The comprehensive first report noted that future reports covering further instalments were expected to be more concise. First report, p. 2.

f/ S/AC.26/1991/1.

g/ Idem.

h/ See first report, pp. 49-208, and second report, paras. 24-51.

i/ The "fast-track" processing approach is described in greater detail in the second report; see, in particular, paras. 8-14.

j/ Approximately 166,000 and 92,500 category "C" claims have been filed by the Governments of Kuwait and Egypt respectively.

k/ Pursuant to article 7 (2) of the Rules.

l/ See second report, para. 18.

m/ See the discussion in the second report on the methodology used in resolving claims for forced hiding; second report, paras. 25-32.

n/ See second report, note 48.

o/ In connection with the rejection of tnese claims, the Panel notes in particular that the claimants' asserted deprivation of all economic resources should be clearly observable from the claim form and the attached documents; see first report, p. 194, and second report, note 48.

p/ See S/AC.26/Dec.22 (1994) and S/AC.26/Dec.24 (1994).

q/ First report, pp. 32-33.

r/ See also S/AC.26/1992/16.

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